

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 10, 2017
Time of Incident:	3:18 PM
Location of Incident:	846 W. 111 th St.
Date of COPA Notification:	February 8, 2019
Time of COPA Notification:	12:52 PM

On October 10, 2017, the complainant, [REDACTED] was arrested for driving under the influence of alcohol. He also received traffic citations and an ordinance violation. Per [REDACTED] he was stopped and arrested without justification, and his arrest report included fabrications. After interviewing [REDACTED] and reviewing available evidence, COPA recommends all allegations be Exonerated and Unfounded. COPA’s findings are discussed in the Analysis portion of this report.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2014, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1974, Male, Hispanic
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2015, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1994, Male, White
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1977, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	1. Detained [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated
	2. Arrested [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated
	3. Provided fabricated details in [REDACTED] arrest report under CB # [REDACTED] in violation of Rule 2 and Rule 14.	Unfounded

Officer █████	1. Detained █████ without justification, in violation of Rule 2 and Rule 6.	Exonerated
	2. Arrested █████ without justification, in violation of Rule 2 and Rule 6.	Exonerated
	3. Provided fabricated details in █████ arrest report under CB # █████ in violation of Rule 2 and Rule 14.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
3. **Rule 14:** Prohibits making a false report, written or oral.

Federal Laws

1. **Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

V. INVESTIGATION¹

a. Interviews

COPA interviewed the complainant, █████ on May 1, 2019.² On October 10, 2017, █████ was driving and knew his license was suspended. He saw a marked police car with lights on behind him, and he immediately pulled over on 109th Place. An officer approached and asked █████ where his gun was.³ █████ responded he did not have one.⁴ The officers asked █████ out of the car and █████ was directed to put his hands on the trunk of his car while an officer proceeded to search his vehicle. An empty beer can was found in the backseat, which █████ stated was from the night before.⁵ Per █████ he provided his state identification and asserted that the vehicle was registered in his name. █████ stated that the officers never asked for insurance. █████ was asked

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 11

³ In his COPA statement, █████ related one of his arresting officers had a last name of █████ but he seemed to be referring to Officer █████

⁴ OEMC search results related that █████ had a concealed carry permit at the time of his traffic stop (see Att. 7).

⁵ █████ made no mention of a wine bottle during his COPA interview.

to perform a field sobriety test, which he completed “with no problems.”⁶ █████ followed a pen with his eyes, walked a straight line, and held up his leg. █████ related he has shin splints which impacted his ability to hold up his leg. █████ lifted his leg for as long as he was able, which was at least 45 seconds. The two officers looked at each other, then handcuffed █████. Once at the police station, an officer brought a breathalyzer. █████ blew four or five times until there was a reading. While at the station, █████ was having “pre-seizure complications,” and went to MetroSouth Hospital where he received medicine.⁷

█████ described his arrest report as “flat out false.”⁸ Per █████ officers charged him with running a stop sign, but there was no stop sign. █████ also denied driving through an alley or being at 110th and Morgan. █████ further denied that he resisted arrest or fled from officers. █████ related that he admitted to drinking the day prior, but not the day of his arrest. █████ did not know why he was pulled over. █████ related he had a current license plate and sticker when he was pulled over. █████ related that prior to his incident, he never had seizures but he now does because he was falsely prosecuted.

b. Digital Evidence

No Body Worn Camera (BWC) was available as the █████ District was not assigned BWC until October 30, 2017.

In Car Camera (ICC) footage was obtained pertaining to █████ October 10, 2017 arrest.⁹ ¹⁰ ICC began at approximately 2:56 PM. A black Lexus turned in front of the officers at about 2:57 PM, before turning left into an alley. The Lexus traveled about halfway down the alley before stopping. The officers approached and Officer █████ opened the passenger door. █████ got out of his car seconds later and put his hands on his trunk. Officer █████ appeared to reach into █████ pants pocket and removed his wallet. Officer █████ then searched inside █████ pants pockets before handcuffing █████. Officer █████ proceeded to search █████ car and removed a glass bottle containing a small amount of liquid and what appeared to be a can. Both officers then searched the vehicle until roughly 3:04 PM. At approximately 3:06 PM, Officer █████ began the field sobriety tests. Officer █████ held a pen in front on █████ and moved it from side to side, then up and down. Next, Officer █████ had █████ walk a straight line, starting at roughly 3:08 PM. █████ appeared unstable during this test and did not keep his balance well. At about 3:10 PM, Officer █████ had █████ stand with his leg extended off the ground. █████ was apparently unable to do so, as his leg kept falling down for each attempt after about one second.

c. Physical Evidence

No relevant physical evidence was obtained pertaining to the present investigation.

d. Documentary Evidence

⁶ Approximately 5:36 minute mark of Att. 11.

⁷ Approximately 10:05 minute mark of Att. 11.

⁸ Approximately 11:55 minute mark of Att. 11.

⁹ Att. 8

¹⁰ ICC from this incident does not included audio.

██████████ **Arrest Report** was obtained from October 10, 2017.¹¹ ██████████ was charged with felony aggravated driving under the influence of alcohol (DUI), disregarding a stop sign, driving on a revoked license, operating a motor vehicle without insurance, two counts of misdemeanor DUI, failure to have/properly display a city vehicle sticker, and transporting/carrying liquor as a driver. Officers saw ██████████ “fail to stop at the stop sign located at 933 W. 110th Place.” The officers got behind ██████████ and turned on their emergency equipment. ██████████ “continued south on Morgan Street then turned left to go east in an alley.” The officers continued following and “were required to activate siren to finally curb vehicle.” When the officers approached, they noticed ██████████ had “heavily red-bloodshot glassy and watery eyes.” ██████████ speech was described as “heavily slurred, mumbled and confused [...] with a strong odor of alcoholic beverage emanating from his breath.” The officers saw an open can of beer and an open bottle of wine, which ██████████ “admitted to consuming.” Officer ██████████ asked for a driver’s license and insurance. ██████████ responded, “that he may be suspended and that he did not have insurance.” ██████████ was asked out of his car and he “again admitted to consumption of alcohol both last night as well as to drinking the open alcohol beverages [...]” ██████████ agreed to field sobriety tests and showed “indicators of impairment.” ██████████ was described as “very indifferent and slow to answer [...] questions.” ██████████ was then arrested for DUI. Once in the squad car, officers noticed “a strong odor of alcohol beverage [...]” Once at the station, ██████████ took a breathalyzer test with a breath alcohol concentration (BRAC) of 0.216. ██████████ went to MetroSouth Medical Center at roughly 12:05 AM on October 11, 2017 to take high blood pressure medication. He returned to the station at about 1:24 AM.

Inventory Sheets were located from ██████████ October 10, 2017 arrest.¹² In addition to personal items, a bottle of wine and a can of beer were inventoried. Glass viles containing liquid from said containers were also inventoried.

An **Original Case Incident Report** and **Case Supplementary Report** were obtained from ██████████ arrest on October 10, 2017 under RD # ██████████¹³ Per these documents, an RD# was generated in error. Neither document contained additional, pertinent information.

Event Number ██████████ was initiated at approximately 3:06 PM on October 10, 2017.¹⁴ Beat 2233 (Officers ██████████ and ██████████ initiated a traffic stop, then ran ██████████ driver’s license shortly after. At about 3:20 PM, Beat ██████████ reported going to the ██████████ District with one subject.

The following relevant **criminal dockets** were obtained from the Cook County Clerk of the Circuit Court.

- **Case Number** ██████████ was filed on October 11, 2017, and ██████████ was placed on electronic home monitoring.¹⁵ ██████████ was charged with felony aggravated DUI and

¹¹ Att. 4

¹² Att. 23

¹³ Atts. 18, 10

¹⁴ Att. 7

¹⁵ Att. 20

seven traffic citations. On November 6, 2017, the case was superseded by direct indictment and transferred to the criminal division as Case Number 17CR [REDACTED]

- **Case Number 17CR [REDACTED]** was filed on November 6, 2017.¹⁶ [REDACTED] received seven felony charges of aggravated DUI. [REDACTED] pleaded not guilty on November 29, 2017. On May 20, 2018, a petition for a violation of bail bond was filed.¹⁷ On October 30, 2018, [REDACTED] pleaded guilty to felony aggravated DUI/license suspended or revoked. [REDACTED] was sentenced to two years of probation with 45 days of credit for time served. A judgement of nolle prosequi was entered for the remaining six charges.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

Allegation 1 against both officers, that they detained [REDACTED] without justification, is **Exonerated**. Per [REDACTED] arrest report, the officers stopped him for failing to stop at a stop sign near 933 W. 110th PL. [REDACTED] denied to COPA that a stop sign even existed at the location where

¹⁶ Att. 21

¹⁷ See Att. 22 for an unrelated criminal docket filed on May 20, 2018, in which [REDACTED] was the defendant.

he was pulled over. However, ICC shows [REDACTED] running through a stop sign immediately before he turned right off 110th St. and onto Morgan St. This was also when he turned in front of the squad car. A stop sign was seen in ICC, and Google Maps confirmed there is a stop sign on the southwest corner of Morgan and 110th PL.¹⁸ [REDACTED] provided COPA with a false statement and ICC exonerates both officers.

Allegation 2 against both officers, that they arrested [REDACTED] without justification, is also **Exonerated**. By [REDACTED] own admission, he was driving on a suspended license and had open alcohol containers in his vehicle. Regardless of whether [REDACTED] was intoxicated, the officers had sufficient probable cause to arrest him for driving on a suspended license. However, the open containers and his field sobriety tests also created sufficient probable cause for a DUI arrest. As such, [REDACTED] arrest was valid, and this allegation is exonerated.

Allegation 3 against Officer [REDACTED] and Officer [REDACTED] that they provided false statements in [REDACTED] arrest report, is **Unfounded**. [REDACTED] provided COPA with several statements that called his credibility into question. First, [REDACTED] denied that he was pulled over at 110th Place and Morgan. ICC was cross referenced with Google Maps, confirming that the officers accurately reported where they stopped [REDACTED]. Similarly, [REDACTED] denied driving through an alley, which is disproved by ICC. [REDACTED] also denied running a stop sign which, as detailed above, was untrue based on ICC. [REDACTED] further reported that he stopped as soon as he saw the officers and they did not have to follow him. Again, ICC shows this is untrue. [REDACTED] drove several hundred feet and made two turns before coming to stop in the middle of an alley. Next, [REDACTED] omitted that a bottle (reported as wine by CPD) was also removed from his car, but the bottle was seen in ICC and reported in the arrest report. Also, [REDACTED] asserted that he kept his leg raised for at least 45 seconds during his field sobriety test. ICC shows this is untrue, as [REDACTED] struggled to keep his leg raised for even a couple seconds. [REDACTED] claim that shin splints prevented him from raising his leg also comes across as unbelievable, and further weakens his credibility. Equally as unbelievable is [REDACTED] assertion that he now suffers from seizure because he was arrested. According to [REDACTED] his arrest report states he resisted the officers. This action is not reported in the arrest report and he was not charged with resisting arrest. Lastly, [REDACTED] believed one of his arresting officers was named “Rios,” which is not the name of either of his arresting officers. While COPA cannot verify if [REDACTED] had a current license plate and/or city sticker, or if [REDACTED] admitted to drinking, the multitude of discrediting factors makes his assertion unbelievable and this allegation is unfounded against both officers. Further, the officers already had probable cause to arrest [REDACTED] and would not need to fabricate these details.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED]	1. Detained [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated

¹⁸ COPA notes that the Google Maps image was captured in November 2018 and [REDACTED] was stopped in October 2017.

	2. Arrested [REDACTED] without justification, in violation of Rule 2 and Rule 6. 3. Provided fabricated details in [REDACTED] arrest report under CB # [REDACTED] in violation of Rule 2 and Rule 14.	Exonerated Unfounded
Officer [REDACTED]	1. Detained [REDACTED] without justification, in violation of Rule 2 and Rule 6. 2. Arrested [REDACTED] without justification, in violation of Rule 2 and Rule 6. 3. Provided fabricated details in [REDACTED] arrest report under CB # [REDACTED] in violation of Rule 2 and Rule 14.	Exonerated Exonerated Unfounded

Approved:

[REDACTED]

July 26, 2019

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	████████████████████
Supervising Investigator:	██
Deputy Chief Administrator:	Andrea Kersten, █